



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1995

Ms. Tamara Armstrong  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR95-221

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31393.

The Travis County Community Supervision and Corrections Department (the "department") received an open records request for, *inter alia*:

[the] total number and names of current and past probationers classified as sex offenders for [whom a named individual] is a therapist.

You inform this office that the department does not maintain a list of the requested information. You state, however, that the department "does have numerous documents which contain the names of probationers or former probationers who are or were [the therapist's] patients." Although you do not object to releasing "existing statistical information" that would be responsive to this request, you contend that the names of current and former patients of the therapist are made confidential under section 611.002 of the Health and Safety Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.<sup>1</sup>

We agree. Section 611.002(a) of the Health and Safety Code provides:

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<sup>1</sup>Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

(a) Communications between a patient and a professional,<sup>2</sup> and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004. [Footnote added; emphasis added.]

You explain that the identities of sex offenders who see particular therapists are released to the department pursuant to section 611.004(a)(1) of the Health and Safety Code, which provides for disclosure of information made confidential by section 611.002 "to a governmental agency if the disclosure is required or authorized by law." Further, section 611.004(d) prohibits the subsequent release of information deemed confidential under section 611.002 "except to the extent that disclosure is consistent with the authorized purposes for which . . . the information" was obtained.

Clearly, the names of patients seeing a particular therapist are confidential under section 611.002 of the Health and Safety Code and section 611.004(d) prohibits the department from further releasing the requested information in this particular instance. See Open Records Decision No. 565 (1990) (interpreting predecessor statute). The department therefore must withhold the names of the patients pursuant to section 611.002 of the Health and Safety Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/RWP/rho

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<sup>2</sup>Section 611.001 of the Health and Safety Code defines "professional" in part as "a person licensed or certified by this state to diagnose, evaluate, or treat any mental or emotional condition or disorder."

Ref.: ID# 31393

Enclosures: Submitted documents

cc: Mr. Brian Collister  
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(w/o enclosures)